

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Dale B. SCHENK *et al.*

Serial No.: 10/789,273

Filed: February 27, 2004

For: HUMANIZED ANTIBODIES THAT
RECOGNIZE BETA AMYLOID PEPTIDE

Attorney Docket No.: ELN-002CPCN3

Group Art Unit: 1644

Examiner: Not Yet Assigned

MS Petitions
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EV 418603563 US in an envelope addressed to: MS Petitions, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date set forth below.

January 28, 2005

Date of Signature and of Mail Deposit

By:

Debra J. Milasincic
Reg. No. 46,931
Attorney for Applicant

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. 1.181

Dear Sir:

Petitioners respectfully request that the above-identified application be withdrawn from abandonment based on the following facts.

Petitioners first became aware of the abandonment of the application on January 5, 2005, while researching its status on the USPTO Patent Application Information Retrieval System (PAIR). Further inquiries with Mr. Preston Wallace of the Office of Initial Patent Examination (OIPE) revealed that that the application had gone abandoned for failure to timely or properly reply to the Notice to File Missing Parts mailed on May 13, 2004.

It is respectfully submitted that Petitioners did not receive the Notice to File Missing Parts until January 12, 2005, at which time Mr. Wallace faxed the Notice to the Petitioners. Evidence that Petitioners never received the Notice to File Missing Parts mailed from the Patent Office on May 13, 2004 is provided herewith in the form of Petitioner's docket reports for the months of July 2004 (Appendix A) and December 2004 (Appendix B), during which time a response to the Notice to File Missing Parts would have been docketed had it been received. Specifically, had the Notice to File Missing Parts been received by Petitioners, then indication of the due date for response would have been docketed for 2 months from the mailing date of the Notice to File Missing Parts. Response due dates also would have been indicated for 3, 4, 5, 6 and 7 months from the mailing date of the Notice to File Missing Parts, corresponding to the available monthly extensions of time. Therefore, had the Notice to File Missing Parts mailed on May 13, 2004 been received by Petitioners, notation of a response due date would have been entered into Petitioners' docketing system for the dates of July 13, 2004, August 13, 2004, September 13, 2004, October 13, 2004, November 13, 2004, and December 13, 2004. For example, docket date notations would appear at pages 17 and 20, respectively, on the enclosed docket reports for the months of July 2004 and December 2004 (see tabbed pages). As confirmed by these pages, no docket dates appear for the Notice to File Missing Parts mailed on May 13, 2004 in the present application (U.S. Serial No. 10/789,273), since the Notice to File Missing Parts was never received by Petitioners.

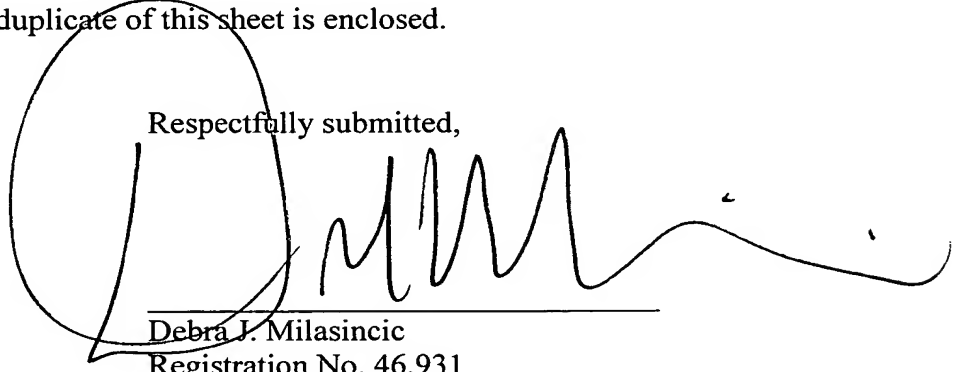
Also enclosed herewith is a Petition to Expunge Under 37 C.F.R. §1.59(b) requesting that the enclosed docket report, containing confidential information, be expunged by the Patent Office, in its entirety, from the file of the present application upon rendering a Decision on the present Petition.

Based on the facts provided above, Petitioners respectfully request that the holding of abandonment be withdrawn in the present application.

Petitioners also respectfully request that the petition fee be waived since the Notice of Abandonment, if in fact mailed, was issued in error. However, if fees are due, please charge our Deposit Order Account No. 12-0080.

Please charge any underpayments or credit any overpayments to our Deposit Account No. 12-0080. A duplicate of this sheet is enclosed.

Respectfully submitted,



Debra J. Milasincic
Registration No. 46,931
Attorney for Applicants

LAHIVE & COCKFIELD, LLP
28 State Street
Boston, MA 02109
Tel. (617) 227-7400

Dated: January 28, 2005